



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

A

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,864	04/25/2001	Timothy A. Lewis	00-1019	7239
7590	09/08/2005		EXAMINER	
LOREN H. McROSS PHOENIX TECHNOLOGIES LTD 915 MURPHY RANCH ROAD MILPITAS, CA 95035			BONURA, TIMOTHY M	
			ART UNIT	PAPER NUMBER
			2114	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

	Application No.	Applicant(s)
	09/841,864	LEWIS, TIMOTHY A.
	Examiner	Art Unit
	Tim Bonura	2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 20 June 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5, 7 and 9-17 is/are rejected.  
 7) Claim(s) 6 and 8 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7, and 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve, U.S. Patent Number 5,398,333, and further in view of Indiana University Knowledge Base article “Using the Windows NT 4.0 Task Manager, how do I close an application that is not responding” (referred to as IUKB).

3. Regarding claim 1:

a. Regarding the limitation of “detecting status of at least two software-detectable buttons at power-on of the computer system” Schieve discloses a system that has a reset button that can be detected upon being pressed. (Lines 35-36 of Column 2). The button can be used during a booting state. (Lines 7-10 of Column 3). Schieve does not disclose having at least two buttons. IUKB discloses a system with the Windows NT 4.0 task manager program that can be accessed by pressing ctrl-Alt-Delete on the keyboard. The task manager is well known to have the functionality of buttons to reset a computer and have the ability to enter a recovery mode by “killing” application programs. (See web page printout). It would have been obvious to one of ordinary skill in the art at the time of the invention combine the art of Schieve and the Windows NT 4.0 task manager. One would have been motivated because Schieve discloses a system in which the scope of the

invention allows for interaction with a user via a keyboard and monitor. (Lines 15-18 of Column 3).

b. Regarding the limitation of “distinguishing between normal use of the at least two software-detectable buttons and as firmware recovery buttons” Schieve discloses a button that can act as a diagnostic button or a reset button. (Lines 37-42 of Column 2). IUKB discloses multiple buttons. (See printouts).

c. Regarding the limitation of “initiating system firmware recovery mode,” Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. (Line 64-66 of Column 2 and Lines 65-68 of Column 4).

d. Regarding the limitation of “upon detecting the status of the at least two software-detectable buttons”. IUKB discloses a system with the Windows NT 4.0 task manager program that can be accessed by pressing ctrl-Alt-Delete on the keyboard. The task manager is well known to have the functionality of buttons to reset a computer and have the ability to enter a recovery mode by “killing” application programs. (See web page printout).

4. Regarding claim 2, Schieve discloses a system with where the button is also an on/reset button. (Lines 57-63 of Column 2).

5. Regarding claim 3, Schieve discloses a system wherein upon pressing the reset button an I/O bit is set at the CPU. (Lines 5-8 of Column 6).

6. Regarding claim 7:

e. Regarding the limitation of “selectively holding down the power or sleep button at power-on for a predetermined time period,” Schieve discloses a system wherein the power button has a timer associated with the pressing of the button. (Liens 55-60 of Column 5).

f. Regarding the limitation of “providing an indication to release the selected button,” Schieve also discloses that the system will reset if the button is not pressed correctly to activate the diagnostic routine. (Lines 32-34 of Column 3).

7. Regarding claims 12, Schieve discloses a system wherein the reset button is pressed to initiate a diagnostic routine. (Lines 30-32 of Column 3)

8. Regarding claims 13, Schieve discloses a system wherein the reset button is pressed to initiate a diagnostic routine. (Lines 23-32 of Column 3)

9. Regarding claim 14:

g. Regarding the limitation of “detecting a power button and a sleep button being depressed simultaneously at power-on,” Schieve discloses a system that has a reset button that can be detected upon being pressed. (Lines 35-36 of Column 2). The button can be used during a booting state. (Lines 7-10 of Column 3). Schieve does not disclose having at least two buttons. Schieve discloses a button that can act as a diagnostic button or a reset button. (Lines 37-42 of Column 2). IUKB discloses multiple buttons. (See printouts). IUKB discloses a system with the Windows NT 4.0 task manager program that can be accessed by pressing ctrl-Alt-Delete on the keyboard. The task manager is well known to have the functionality of buttons to reset a computer and have the ability to enter a recovery mode by “killing” application programs. (See web page printout). It

would have been obvious to one of ordinary skill in the art at the time of the invention combine the art of Schieve and the Windows NT 4.0 task manager. One would have been motivated because Schieve discloses a system in which the scope of the invention allows for interaction with a user via a keyboard and monitor. (Lines 15-18 of Column 3).

h. Regarding the limitation of “initiating system firmware recovery mode in response to the depressed power and sleep buttons,” Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. (Line 64-66 of Column 2 and Lines 65-68 of Column 4).

10. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve as applied to claim 1 above.

11. Regarding claim 4, Schieve discloses a system wherein a bit is set in the CPU upon a power button being pressed. (Lines 5-8 of Column 6). However, Schieve does not disclose the bit is stored in the PM1a\_CNT register. It would be a design choice of the inventor as to what type of CPU is used and which register to store the bit in. The applicant suggests this in their own application. (Page 5, 1<sup>st</sup> paragraph).

12. Regarding claim 5, Schieve discloses a system wherein a bit is set in the CPU upon a power button being pressed. (Lines 5-8 of Column 6). However, Schieve does not disclose the bit is stored in the PWR-LVL register. It would be a design choice of the inventor as to what type of CPU is used and which register to store the bit in. The applicant suggests this in their own application. (Page 5, 1<sup>st</sup> paragraph).

13. Claims 9-11 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve as applied to claim 1 above, and further in view of Schmidt, et al, U.S. Patent Number

6,167,482. Regarding claim 9, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a floppy disk to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

14. Regarding claim 10, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a modem to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

15. Regarding claim 11, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a floppy disk or a modem to update a flash memory. (Lines 26-31 of Column 1). It

would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

16. Regarding claim 15, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a floppy disk to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

17. Regarding claim 16, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a modem to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to

provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

18. Regarding claim 17, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a floppy disk or a modem to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

*Response to Arguments*

19. Applicant's arguments with respect to claims 1-3, 7 and 12-13 have been considered but are moot in view of the new ground(s) of rejection.

20. Applicant's arguments filed 10/21/2004 have been fully considered but they are not persuasive.

21. Regarding arguments from claims 9-11, the argument (Page 10 of response). The applicant has argued, "the use or status of at least two software-detectable buttons in maintaining accurate unit timing is not disclosed in Schmidt." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon

which applicant relies (i.e., maintaining accurate unit timing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

*Allowable Subject Matter*

22. Claims 6 and 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- The examiner can be reached at: **571-272-3654**.

24. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Rob Beausoliel**.

- The supervisor can be reached on **571-272-3645**.

25. The fax phone numbers for the organization where this application or proceeding is assigned are:

- **703-872-9306 for all patent related correspondence by FAX.**

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.
28. Responses should be mailed to:

o **Commissioner of Patents and Trademarks**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

tmb  
August 31, 2005

  
ROBERT BEAUSOLIEL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100